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RL:0324

HB 397 RELATING TO BIOMASS ENERGY PLANTATIONS

Statement for
House Committees on
Energy
Judiciary
Water, Land Use Development & Hawaiian Homes
Public Hearing - 12 February 1979

By
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HB 397 is evidently intended to stimulate the conversion of land, from other uses, to the production of energy for biomass for energy conversion. Although copies of the bill have been distributed to members of the University community in addition to the author of this statement, time has not permitted receipt of more than initial responses from them. The statement does not reflect an institutional position of the University.

Section 4 requires the Department of Taxation to determine whether the highest and best use of land proposed for classification as biomass energy plantation land would actually be this use. Two fundamental questions may be raised.

- i) In the context of land valuation for tax purposes, the highest and best use has usually been interpreted as that use which results in the highest market value for land. If the purpose of the proposed act is to stimulate biomass for energy transformation should not the societal benefits of this production be included together with the strictly monetary benefits in determining what use is highest and best?
- ii) In monetary terms, the net income of the producer of biomass for energy transformation will depend on whether the tax exemption for biomass energy plantations is applied to the lands of the producer. Whether or not the societal benefits are included in the determination of the highest and best use, the determination may depend critically on whether or not the tax exemption applies. The tax exemption provision will provide little incentive to biomass production for energy on lands that are suitable for biomass production but only marginally so, if the highest and best use is determined without assuming that the tax exemption will be applicable.

Section 8 provides that, upon declassification by the energy coordinator, the tax exempt status of the land shall be cancelled retroactive to the date of initial classification. Unless the landowner is absolutely certain that the land cannot legitimately be declassified by the energy coordinator, he is unlikely to withdraw the land from production of whatever crop was being grown on it and substitute an energy biomass crop because there will be an intervening period of no income or low income, and he must recognize the possibility of cancellation of the land exemption that might lead him to forego income.

Section 11 provides that a landowner may add, to land previously classified as biomass energy plantation land, additional land up to 500 acres in area if in the same vicinity, without satisfying any other conditions. Even if in the same vicinity as land suitable for biomass energy cultivation, other land may be quite unsuitable for this purpose by reason of soil or other terrain conditions.